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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,847	03/11/2002	Johann Leist	37904-0037	2541
28481	7590	04/06/2005	EXAMINER	
TIAJOLOFF & KELLY CHRYSLER BUILDING, 37TH FLOOR 405 LEXINGTON AVENUE NEW YORK, NY 10174			LOPEZ, CARLOS N	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070,847

Applicant(s)

LEIST ET AL.

Examiner

Carlos Lopez

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,20,22-31 and 37-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-20,22-31,37-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 43-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed specification fails to support the duration of the heat from each electrode being depended on the rate of rotation of the quartz glass crucible. The specification does not mention any relation between the duration of heating of each electrode and the rotation of the crucible.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-20, 22-31, and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al (US 5,989,021). Sato discloses a method for the production of large diameter quartz crucibles (Abstract). Sato's method comprises using an arc discharge formed by an electrode arrangement 51 and 52, as a heating source for

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melting supplied silicon dioxide powder onto a substrate 3 (Col. 4, lines 36ff). Sato's "arch discharge" which is formed by electrodes 51 and 52 is deemed as the claimed electric arc (Col. 5, lines 46ff). Furthermore, in order to provide an electric discharge as disclosed by Sato, electrodes 51 and 52 would be expected to act as anode and cathode. It also noted that the electric arc of Sato would be expected to heat a portion of the glass crucible being formed. Sato is silent disclosing a duplicate electric arc to fuse the supplied glass powder. However, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have provided a duplicate heat source, electric arc/discharge, in view of *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) which teaches that the duplication of parts, in the instant case of an additional electric discharge, has no patentable significance unless a new and unexpected result is produced and since the duplication of an electric discharge would assure proper heat fusing of the supplied glass powder to form the larger glass crucibles. Furthermore, in view of the cited prior art, which only uses one heat source to form conventional glass crucibles, Sato's process would be expected to require additional heat source in order to assure that the larger glass crucibles being made are provided with homogeneous heating of the glass powder and to additionally increase the rate at which the glass crucible is made since more heat would be available to fuse the supplied glass powder into a glass crucible.

*In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) (Claims at issue were directed to a water-tight masonry structure wherein a water seal of flexible material fills

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the joints which form between adjacent pours of concrete. The claimed water seal has a "web" which lies \*\* in the joint, and a plurality of "ribs" \*\* >projecting outwardly from each side of the web into one of the adjacent concrete slabs. <The prior art disclosed a flexible water stop for preventing passage of water between masses of concrete in the shape of a plus sign (+). Although the reference did not disclose a plurality of ribs, the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.). In the instant case, an additional electric arc is being duplicated for the purpose of providing sufficient heating of the of the supplied glass powders. Since two heat sources heating the supplied glass powder, being fused into a crucible by the heat source, would provide a more homogeneous heating of the glass powder and increase the rate at which the glass crucible is made since more heat would be available to fuse the supplied glass powder into a glass crucible.

In regards to applicant's new limitation regarding the spaced relation of the electrode arrangements, it is obvious to a person of ordinary skill in the art to have the electrodes spaced apart from each other in order to avoid a short circuit. If the electrode arrangements are placed adjacent to each other a short circuit may occur that would prevent the creation of a plasma discharge, the source that provides heat to the wall, from the electrodes. Hence, the electrodes being spaced apart would have the claimed spacial relation relative to the periphery of the quartz glass.

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As for claim 20, 22 and 39, the duplicate electrodes would be placed in regions not heated by the other electrode in order to assure that all the supplied glass powders are sufficiently heated.

As for claims 23-24, the duplicated electrode of Sato being independently separate, would be expected to independently be displaceable from the other electrode.

As for claims 25-28 and 40-41, both electrodes would be arranged at equal distances from the periphery of the formed glass crucible cause in not doing so would result in an uneven heating of the formed glass crucible. An electrode very close to the periphery of the preform would heat the glass crucible to a higher temperature than the electrode at a farther distance from the periphery of the glass crucible resulting in deformation of the glass crucible.

As for claim 29-31 and 42, as noted above the duplicate electrode may be used to assure proper heating of all the glass powder being supplied.

As for claim 37, the electrodes 51 and 52 are inclined toward a section of the glass crucible as shown in figure 1 of Sato.

### ***Response to Arguments***

Applicant's arguments filed 12/22/04 have been fully considered but they are not persuasive.

Applicant argues that the electrode arrangements are "spaced from each other in relation to a periphery of the quartz glass" provides a new and nonobvious result. Hence, due to In re Harza, claim 19 should be allowable.

Applicant's alleged new and nonobvious result pointed by applicant in Page 9 of the response dated 12/22/04 noting specification page 4 line 17 to page 5 line 1, is directed to a second embodiment of the claimed invention that is not recited in applicant's instant claim 19. In particular, the alleged new and nonobvious result as noted in the at specification page 4 line 17 to page 5 line 1, is drawn to second embodiment of the applicant's claimed invention noted just above the cited text and which reads as follows: "in addition to the first electrode arrangement the device is provided with at least one additional electrode arrangement comprising one or several anodes and a cathode, inclined toward the section of the quartz glass crucible which lies opposite the first electrode arrangement"

Hence the alleged "new and nonobvious result" is from a second embodiment of the applicant's disclosure, an embodiment not recited in instant claim 19. Consequently applicant's arguments are found unpersuasive.

Moreover, the claimed duplicated second electrode arrangement would be inclined in the same manner as Sato discloses its first electrode arrangement, see Sato figure 1. Thus the new and nonobvious results alleged by applicant would also be expected in Sato.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

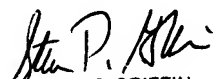
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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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